

### REMARKS

Claims 1, 4, 52, 64-69, and 85-113 are pending in the application. Claims 1, 4, 52, 64, and 67 have been amended. Claims 2, 3, 5-51, 53-63, and 70-84 have been cancelled without prejudice. New claims 85-113 have been added. Support for the amendments and new claims can be found in the specification at, e.g., page 2, line 8, to page 8, line 6, page 29, lines 6-26, and page 30, line 25, to page 31, line 24. The present application claims priority International Application Number PCT/US98/01499, filed January 22, 1998. All of the pending claims are entitled to at least the priority date of that prior patent application. No new matter has been added.

### Claim Objections

At page 2 of the Office Action, claims 8, 14, 16, and 51 were objected to because of several informalities. Claims 8, 14, 16, and 51 have been cancelled without prejudice, thereby obviating the present objection.

### 35 U.S.C. § 103(a)

At pages 3-5 of the Office Action, claims 1-4, 7-10, 18, 33, 34, 52-55, 62, 65-67, 70, 71, 74-76, and 81-83 were rejected as allegedly unpatentable over Lambert et al. (1998) Biochimie 80:969-76 ("Lambert") or Balland (1996) NATO ASI Series 290:131-42 in view of Knepp et al., U.S. Patent No. 6,264,990 ("Knepp").

Claims 1, 4, 52, and 67 have been amended and claims 2, 3, 7-10, 18, 33, 34, 53-55, 62, 70, 71, 74-76, and 81-83 have been cancelled without prejudice.

At least the cited references Lambert and Knepp do not constitute prior art against the pending claims. Lambert was published in December 1998 and Knepp is entitled (according to the face of the patent) to a §102(e) date of December 14, 1999. As noted above, all of the pending claims are entitled to at least the January 22, 1998 priority date of International Application Number PCT/US98/01499.

In view of the claim amendments and the foregoing remarks, applicants request that the Examiner withdraw the rejection.

At pages 5-7 of the Office Action, claims 1-5, 7-9, 11, 13, 16, 18, 21, 26, 33, 34, 51-54, 56, 58, 62, 64, 65, 70-76, and 81-84 were rejected as allegedly unpatentable over Papahadjopoulos et al., U.S. Patent No. 6,210,707 ("Papahadjopoulos") in view of Knepp.

Claims 1, 4, and 52 have been amended and claims and claims 2, 3, 7-9, 11, 13, 16, 18, 21, 26, 33, 34, 51, 53, 54, 56, 58, 62, 70-76, and 81-84 have been cancelled without prejudice.

As detailed above, Knepp does not constitute prior art under §102(e) against the pending claims (which are entitled to a priority date of at least January 22, 1998). In addition, the application that gave rise to the Papahadjopoulos patent was filed on May 12, 1998, which is after the priority date of the pending claims. Papahadjopoulos would only constitute prior art under §102(e) if the Examiner were to identify relevant passages in one or more Papahadjopoulos priority patent applications filed before the priority date of the claims.

In view of the claim amendments and the foregoing remarks, applicants request that the Examiner withdraw the rejection.

At pages 7-8 of the Office Action, claims 12, 57, and 77-80 were rejected as allegedly unpatentable over Papahadjopoulos in view of Knepp and further in view of Debs et al., U.S. Patent No. 5,827,703 ("Debs").

Claims 12, 57, and 77-80 have been cancelled without prejudice.

As noted above, Knepp does not constitute prior art under §102(e) and Papahadjopoulos would only constitute prior art under §102(e) if the Examiner were to identify relevant passages in one or more Papahadjopoulos priority patent applications filed before the priority date of the claims.

In view of the claim amendments and the foregoing remarks, applicants request that the Examiner withdraw the rejection.

At pages 9-10 of the Office Action, claims 14, 15, 19, 20, and 34-36 were rejected as allegedly unpatentable over Papahadjopoulos in view of Knepp and further in view of Fikes et al., U.S. Patent No. 6,534,482 ("Fikes").

Claims 14, 15, 19, 20, and 34-36 have been cancelled without prejudice.

Fikes has an earliest claimed priority date of May 13, 1998, which is after the priority date of the pending claims. As a result, Fikes does not constitute prior art against the claims under §102(e). Furthermore, as noted above, Knepp does not constitute prior art under §102(e) and Papahadjopoulos would only constitute prior art under §102(e) if the Examiner were to identify relevant passages in one or more Papahadjopoulos priority patent applications filed before the priority date of the claims.

In view of the claim amendments and the foregoing remarks, applicants request that the Examiner withdraw the rejection.

At pages 10-11 of the Office Action, claim 63 was rejected as allegedly unpatentable over Papahadjopoulos in view of Knepp and further in view of Hedley et al., U.S. Patent No. 5,783,567 ("Hedley") or Ando et al. (1999) J. Pharm. Sci. 88:126-30 ("Ando").

Claim 63 has been cancelled without prejudice.

Ando was published in 1999 and does not constitute prior art against the pending claims. All of the pending claims are entitled to at least the January 22, 1998 priority date of International Application Number PCT/US98/01499. Furthermore, as noted above, Knepp does not constitute prior art under §102(e) and Papahadjopoulos would only constitute prior art under §102(e) if the Examiner were to identify relevant passages in one or more priority patent applications filed before the priority date of the claims.

In view of the claim amendments and the foregoing remarks, applicants request that the Examiner withdraw the rejection.

At pages 11-13 of the Office Action, claims 66-69 were rejected as allegedly unpatentable over Papahadjopoulos in view of Knepp and further in view of Cleek et al. (1997)

J. Biomed. Materials Res. 35:525-30 ("Cleck") as evidenced by Manoharan et al., U.S. Published Application No. 2005/0153337 ("Manoharan").

Claim 67 has been amended.

As noted above, Knepp does not constitute prior art under §102(e) and Papahadjopoulos would only constitute prior art under §102(e) if the Examiner were to identify relevant passages in one or more Papahadjopoulos priority patent applications filed before the priority date of the claims.

In view of the claim amendments and the foregoing remarks, applicants request that the Examiner withdraw the rejection.

#### CONCLUSION

Applicants submit that all grounds for rejection have been overcome and that all claims are in condition for allowance, which action is requested.

Enclosed is a Petition for Extension of Time. The extension of time fee is being paid concurrently herewith on the Electronic Filing System (EFS) by way of Deposit Account authorization. Please apply any deficiencies or credit any overpayment to deposit account 06-1050, referencing Attorney Docket No. 08190-014002.

Respectfully submitted,

Date: May 15, 2008

\_\_\_\_\_  
Jack Brennan  
Reg. No. 47,443

Fish & Richardson P.C.  
Citigroup Center  
52nd Floor  
153 East 53rd Street  
New York, New York 10022-4611  
Telephone: (212) 765-5070  
Facsimile: (212) 258-2291